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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

THE BILLING RESOURCE, dba
INTEGRETEL, a California corporation,

Debtors

Tax ID: 33-0289863

Case No. 07-52890

Chapter 11

**DECLARATION OF NEAL GOLDFARB
IN SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Date: September 26, 2007
Time: 2:15 p.m.
Place: United States Bankruptcy Court
280 South First Street
San Jose, California
Judge: Hon. Arthur S. Weissbrodt
Courtroom: 3020

1 I, Neal Goldfarb, declare as follows:

2 1. I am senior counsel to the law firm of Tighe Patton Armstrong Teasdale
 3 PLLC in Washington, D.C., where I have been one of the principal attorneys representing
 4 the Debtor in the litigation brought by the FTC in the United States District Court for the
 5 Southern District of Florida (“the Florida Action”). My firm has been the Debtor’s counsel
 6 for regulatory-related matters since approximately 2002, when my co-counsel Richard
 7 Gordin joined the firm and brought the Debtor with him as a client. A petition to have my
 8 firm appointed as special counsel to the Debtor will be filed shortly.

9 2. I have been in practice for almost 27 years, during which time I have
 10 specialized in litigation, primarily in federal courts. I am admitted to practice in the District
 11 of Columbia, Maryland, and Virginia, as well as in the United States Supreme Court; the
 12 United States Courts of Appeals for the District of Columbia, Fourth, Sixth, Tenth, and
 13 Eleventh Circuits; the United States District Courts for the District of Columbia and for the
 14 District of Maryland; and the United States Court of Federal Claims. I am admitted *pro
 15 hac vice* in the Florida Action.

16 3. This declaration is submitted in support of the Debtor’s “Emergency Motion
 17 For Temporary Restraining Order And Order To Show Cause Re: Preliminary Injunction
 18 And Declaratory Relief” (“the Motion”). Capitalized terms not defined herein shall have
 19 the meanings ascribed to them in the Motion.

20 4. If the Court does not grant the Bankruptcy Code section 105 injunction that
 21 the Debtor seeks, the Debtor will most likely incur more than \$870,000 in litigation costs
 22 in the Florida litigation over the next six months. This amount does not include the
 23 expenses to be incurred by the Debtor in having its personnel travel in connection with the
 24 pre-trial and trial activities and other incidental expenses incurred by the Debtor directly.
 25 The overwhelming bulk of that expense is attributable to the FTC’s claim that the Debtor
 26 violated the FTC Act, and is unrelated to any litigation regarding the reserves that the
 27 District Court has ordered to be paid to the Receiver for Access One and Network One.
 28 The fees and costs related to litigation regarding the reserves will likely bring the total

1 expense to between \$920,000 and \$1,020,000.

2 5. The following is a summary of what will have to be done in the Florida
3 Action between now and March 2008:

4 a. *Depositions*: Fourteen or fifteen depositions remain to be taken or
5 completed, some of which will require the Debtor's counsel to travel
6 to Florida. Although the Debtor may be able to skip some of the
7 depositions being taken by the other billing-aggregator defendant and
8 let that defendant take the lead at others, several of the depositions are
9 significant to the Debtor's defense and could not be skipped without
10 significant risk to the Debtor's ability to prevail in the litigation.

11 b. *Discovery motions*: I anticipate that there will be a number of motions
12 relating to the depositions described above.

13 c. *Dispositive motions*: The deadline for dispositive motions is Novem-
14 ber 6, with oppositions due on December 18. The Debtor does not
15 plan to file a dispositive motion, but I anticipate that the FTC will do
16 so and that opposing that motion will require a very substantial
17 investment of attorney and paralegal time. It will also require the
18 involvement of key employees of the Debtor.

19 d. *Other motions*: It is likely that there will be additional motions
20 relating to procedural or evidentiary matters or to the conduct of the
21 trial.

22 e. *Pretrial submissions*: There is a fairly extensive set of requirements
23 for pretrial submissions, including (1) designation of witnesses and
24 exhibits, (2) objections to other parties' exhibits, and (3) an extensive
25 joint pretrial statement. Some of these submissions will require
26 conferences with counsel for the opposing parties, who include not
27 only the FTC but another billing aggregator and nine individual
28 defendants and third-party defendants.

1 f. *Trial:* Trial is scheduled to begin on February 25, 2008 in Florida, and
 2 will most likely take two to four weeks. Two or three attorneys from
 3 my firm would participate in the trial, and possibly a paralegal. In
 4 addition, key employees of the Debtor will have to attend at least parts
 5 of the trial, including the Debtor's president, its head of LEC relations
 6 (i.e., relations with the telephone companies to which the Debtor
 7 submits billing information), its head of sales, and its head of client
 8 relations. There will be substantial out-of-pocket expenses for travel,
 9 lodging, and food for all of these persons.

10 6. The following is my best estimate of the fees that will be associated with my
 11 firm's work on the foregoing litigation tasks over the next six months:

| | | |
|--------------------------------|---------------------------|----------------|
| Richard Gordin (partner) | 600 hours at \$400/hour | 240,000 |
| Steven Lancellotta (partner) | 100 hours at \$400/hour | 40,000 |
| Neal Goldfarb (senior counsel) | 1,200 hours at \$290/hour | 348,000 |
| Joe Cosby (senior counsel) | 100 hours at \$260/hour | 26,000 |
| Max Maccoby (of counsel) | 500 hours at \$250/hour | 125,000 |
| Evi Georgiou (associate) | 40 hours at \$165/hour | 6,600 |
| Paralegals | 300 hours at \$120/hour | <u>36,000</u> |
| TOTAL | | 821,600 |

17 7. In addition to these fees, there will most likely also be additional fees for
 18 work performed by our local counsel in Florida, who are with the firm of Holland &
 19 Knight. A conservative estimate of these fees would be \$10,000. There will also be very
 20 substantial out-of-pocket costs, which will include travel costs (airfare, hotel, meals, and
 21 car rental) not only for the trial itself but also for travel to the Debtor's offices to prepare
 22 witnesses for trial, deposition and court transcript expenses, and litigation support costs.
 23 These costs will probably run in the range of \$50,000-75,000.

24 8. The fees and expenses described above represent the amount of work that
 25 would be required even if the Debtor did not have to deal with the various issues relating
 26 to the Receiver's claim to the reserves. Proceedings relating to those matters would add
 27 fees and expenses in the range of \$50,000 to \$150,000. (The actual amount of fees devoted
 28

1 to these matters would be higher than that, but given the number of attorneys available to
2 work on the case, some of the time devoted to the reserve issues would be time that would
3 otherwise be devoted to working on the main litigation.)

4 I declare under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on September 24, 2007, at Washington, D.C.

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NEAL GOLDFARB

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